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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/063,227 04/20/98 CASAS-BEJAR

J P-7109

EXAMINER

QM12/0508

THOMAS F WOODS
MEDTRONIC INC
7000 CENTRAL AVENUE NE
MINNEAPOLIS MN 55432

THISSELL, J

ART UNIT

PAPER NUMBER

3762

13

DATE MAILED:

05/08/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/063,227

Applicant(s)

Casas-Bejar et al.

Examiner

Jeremy Thissell

Group Art Unit

3762



☒ Responsive to communication(s) filed on Feb 14, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 13-19, 24, 27, 29, 33, and 34 is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 13-19, 24, 27, 29, 33, and 34 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 12

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

CHRISTOPHER DAWSON
PATENT EXAMINER

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 13-19, 24, 27, 29, 33, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chait '555 in view of Stokes (US Pat No. 4,711,251) and Fearnot et al '629.

Chait teaches a catheter having an external fitting coupled to the proximal end, and helical coils as claimed. Chait lacks a layer with anti-inflammatory agent in it.

Stokes teaches an elongate body-inserted member with a drug imbedded in an outer non-porous silicone layer as claimed (col. 4, lines 24-28). Stokes also teaches that this drug can be an anti-inflammatory agent, anti-thrombotic agent, or combination of the two (col. 1, lines 65-67).

It would have been obvious to one having ordinary skill in the art to form the catheter of Chait with the layered structure of Stokes, since formation of catheters with layers and with drug-saturated layers is well known in the art of catheters.

Fearnot also teaches a catheter (col. 6, line 25) with a drug imbedded in a non-porous layer 18, the drug specifically disclosed as dexamethasone (col. 8, line 66) in it. Fearnot also teaches that

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the catheter can have heparin embedded in it (col. 8, line 49). Since Stokes discloses the drugs so broadly, it would have been obvious to one of ordinary skill in the art to choose an appropriate anti-inflammatory and/or anti-thrombotic agent as taught by Fearnot for the intended use.

The methods claimed in claims 27 and 29 claim only the step of inserting the catheter, which is clearly taught by Chait. The structure claimed in claims 27 and 29 is anticipated by the combination of Chait, Stokes, and Fearnot as discussed supra.

The methods claimed in claims 33 and 34 claim simply that the catheter with the structure as claimed is assembled. The claims do not claim any specifics about the assembly. Clearly, it would have been obvious to one of ordinary skill in the art that the components of Chait must be put together in order to have the structure shown.

Response to Arguments

3. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Contacts

Any inquiry concerning this communication should be directed to Jeremy Thissell at (703) 305-5261, or to Primary Patent Examiner Glenn Dawson (703) 308-4304.

Jeremy Thissell

Patent Examiner

JT

May 6, 2000

